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10/668,544	09/23/2003	Thaddeus John Gabara	90-6	2117

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EXAMINER	
CASCA, FRED A	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/668,544	GABARA ET AL.	
	Examiner	Art Unit	
	Fred A. Casca	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections –35 U.S.C. 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 8,17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Karaoguz (U.S. Pub. No. 2004/0203889 A1).

Referring to claim 1, Karaoguz discloses a method for use in a wireless network comprising a plurality of user devices adapted for communication with at least one access point device (Figure 2-5, and paragraphs 17, 19, and 22, "wireless . . . network . . . containing an Access Point . . . devices 220a, 220b"), the method comprising the steps of

initiating a test of a communication link between at least one of the user devices and the access point device the test comprising a determination of data throughput performance (Figs. 2-5, and paragraphs 17, 19, 22, 38, and 40-44, "evaluate and assess the location information", "determine a primary optimal location", "recommend and provide the optimal information to the wireless device", "corresponding optimal locations along with the corresponding data rates", note that the optimal location for communication is determined and recommended, hence it is inherent that a test is performed so that the optimal positions are determined. Further note that

specific locations within the cell configuration provide specific data throughput performance. The data throughput performance of each location within the cell is inherently determined in order to provide the data rate capacity for each particular location since each location within the cell has a known data rate capacity, where optimum location is consequently determined according to such data rate capacity), and

generating, based at least in part on a result of the test, an instruction displayable to a user associated with a given one of the user devices, the instruction being indicative of a location at which the given user device is expected to obtain a particular level of data throughput performance (paragraphs 7-9, and 40-44, Abstract, Figures 1-5, "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", "additional information . . . data capabilities information such as data rate", "optimal location information", "a recommendation signal", "configuration device can recommend and provide the optimal information to the wireless device . . . as shown on FIG. 5", "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", note that test (evaluation and assessment) is initiated so that optimal locations are determined. Further note that data throughput performance (data rate) information is provided with corresponding optimal locations, hence it is inherent that the test comprises a determination of data throughput performance. Further note that test (evaluation and assessment) is performed to determine what is optimal location and a recommendation signal is transmitted to the wireless device as a result of the test and inherently displayed as on figure 5).

Referring to claim 2, Karaoguz disclose the method of claim 1, wherein the test comprises a test of a communication link between the given user device and the access point device (paragraphs 6-8, and 40-44).

Referring to claim 3, Karaoguz disclose the method of claim 1, wherein the test comprises a test of a communication link between one of the user devices, other than the given user device, and the access point device (figures 2-5, and paragraphs 6-8, and 40-44).

Referring to claim 4, Karaoguz disclose the method of claim 1, wherein the location comprises a location at which the given user device is expected to obtain a maximum achievable level of data throughput performance (Abstract, Figures 2-5, and paragraphs 0006, 0041-0042, "optimal location information", "optimal locations").

Referring to claim 5, the Karaoguz disclose the method of claim 1, wherein the given user device is at a current location, and the instruction is indicative of another location associated with an improved level of data throughput performance relative to that of the current location (figures 2-5 and 0040-0044, "optimal location information", "optimal locations", note that one or more optimal location information is provided and the user can at any time choose the optimal location for better communication).

Referring to claim 8, Karaoguz disclose the method of claim 1, wherein the test comprises a test of at least one of an uplink communication channel between the user device and the access point device and a downlink communication channel between the user device and the access point device (paragraphs 0040-0044, note that data rate capacity is tested to determine best access point, hence at least one of an uplink communication channel between the user device and the access point device and a downlink communication channel between the user device and the access point device is tested).

Referring to claim 17, Karaoguz discloses an apparatus for use in a wireless network including a plurality of user devices adaptable for communication with at least one access point device (Figure 2-5, and paragraphs 17, 19, and 22, "wireless . . . network . . . containing an Access Point . . . devices 220a, 220b"), the apparatus comprising

a processing device having a processor coupled to a memory, the processing device comprising at least one of a user device and an access point device of the wireless network wherein the processing device is configurable to initiate a test of a communication link associated with at least one of the user devices, the test comprising a determination of data throughput performance (Figs. 2-5, and paragraphs 17, 19, 22, 38, and 40-44, "evaluate and assess the location information", "determine a primary optimal location", "recommend and

provide the optimal information to the wireless device", "corresponding optimal locations along with the corresponding data rates", note that the optimal location for communication is determined and recommended, hence it is inherent that a test is performed so that the optimal positions are determined and inherently a processor exists so that such determination is provided where the processor is inherently coupled to the memory. Further note that specific locations within the cell configuration provide specific data throughput performance. The data throughput performance of each location within the cell is inherently determined in order to provide the data rate capacity for each particular location since each location within the cell has a known data rate capacity, where optimum location is consequently determined according to such data rate capacity determination).

to generate, based at least in part on a result of the test, an instruction displayable to a user associated with a given one of the user devices, the instruction being indicative of a location at which the given user device is expected to obtain a particular level of data throughput performance (paragraphs 6-9, and 40-44, Abstract, Figures 1-5, "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", "additional information . . . data capabilities information such as data rate", "optimal location information", "optimal locations", "a recommendation signal", "Access Point", "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", note that test (evaluation and assessment) is initiated so that optimal locations are determined. Further note that data throughput performance (data rate) information is provided with corresponding optimal locations, hence it is inherent that the test comprises a determination of data throughput performance. Further note that test (evaluation and assessment) is performed to determine what is optimal location and a recommendation signal is transmitted to the wireless device as a result of the test).

Referring to claim 18, Karaoguz discloses a communication system (Abstract, Figures 1-5, and paragraphs 7-9) comprising a wireless network including a plurality of user devices adaptable for communication with at least one access point device (FIGS. 1-5, Figure 2-5, and paragraphs 17, 19, and 22, 38 and 40-44 "wireless . . . network . . . containing an Access Point . .

. devices 220a, 220b"), wherein a test of a communication link between at least one of the user devices and the access point device is initiated the test comprising a determination of data throughput performance (Figs. 2-5, and paragraphs 17, 19, 22, 38, and 40-44, "evaluate and assess the location information", "determine a primary optimal location", "recommend and provide the optimal information to the wireless device", "corresponding optimal locations along with the corresponding data rates", note that the optimal location for communication is determined and recommended, hence it is inherent that a test is performed so that the optimal positions are determined. Further note that specific locations within the cell configuration provide specific data throughput performance. The data throughput performance of each location within the cell is inherently determined in order to provide the data rate capacity for each particular location since each location within the cell has a known data rate capacity, where optimum location is consequently determined according to such data rate capacity), and

based at least in part on a result of the test, an instruction displayable to a user associated with a given one of the user devices is generated, the instruction being indicative of a location at which the given user device is expected to obtain a particular level of data throughput performance (paragraphs 7-9, and 40-44, Abstract, Figures 1-5, "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", "additional information . . . data capabilities information such as data rate", "optimal location information", "a recommendation signal", "configuration device can recommend and provide the optimal information to the wireless device . . . as shown on FIG. 5", "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", note that test (evaluation and assessment) is initiated so that optimal locations are determined. Further note that data throughput performance (data rate) information is provided with corresponding optimal locations, hence it is inherent that the test comprises a determination of data throughput performance. Further note that test (evaluation and assessment) is performed to determine what is optimal location and a recommendation signal is transmitted to the wireless device as a result of the test and inherently displayed as on figure 5).

Referring to claim 19, Karaoguz discloses an article of manufacture comprising a machine-readable storage medium storing one or more software programs for use in a wireless network (figures 2-5, and paragraphs 7-8, 17-18, and 40-44, "a method of optimally configuring a wireless cell network . . . implemented in hardware, or software")

comprising a plurality of user devices adapted for communication with at least one access point device wherein the one or more programs when executed implement the steps of initiating a test of a communication link between at least one of the user devices and the access point device, the test comprising a determination of data throughput performance (Figs. 2-5, and paragraphs 17, 19, 22, 38, and 40-44, "evaluate and assess the location information", "determine a primary optimal location", "recommend and provide the optimal information to the wireless device", "corresponding optimal locations along with the corresponding data rates", note that the optimal location for communication is determined and recommended, hence it is inherent that a test is performed so that the optimal positions are determined. Further note that specific locations within the cell configuration provide specific data throughput performance. The data throughput performance of each location within the cell is inherently determined in order to provide the data rate capacity for each particular location since each location within the cell has a known data rate capacity, where optimum location is consequently determined according to such data rate capacity); and

generating, based at least in part on a result of the test, an instruction displayable to a user associated with a given one of the user devices, the instruction being indicative of a location at which the given user device is expected to obtain a particular level of data throughput performance (paragraphs 7-9, and 40-44, Abstract, Figures 1-5, "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", "additional information . . . data capabilities information such as data rate", "optimal location information", "a recommendation signal", "configuration device can recommend and provide the optimal information to the wireless device . . . as shown on FIG. 5", "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", note that test (evaluation and assessment) is initiated so that optimal locations are determined. Further note that data throughput performance (data rate) information is provided with corresponding optimal

locations, hence it is inherent that the test comprises a determination of data throughput performance. Further note that test (evaluation and assessment) is performed to determine what is optimal location and a recommendation signal is transmitted to the wireless device as a result of the test and inherently displayed as on figure 5).

Referring to claim 20, Karaoguz discloses a method for use in a wireless network (Figure 2-5, and paragraphs 17, 19, and 22, 38 and 40-44 "wireless . . . network . . . containing an Access Point . . . devices 220a, 220b") comprising a plurality of user devices adapted for communication with at least one access point device (Figure 2-5, and paragraphs 17, 19, and 22, 38 and 40-44 "wireless . . . network . . . containing an Access Point . . . devices 220a, 220b"), the method comprising the steps of initiating a test of a communication link between a user device at a current location and an access point device, the test comprising a determination of data throughput performance (Figs. 2-5, and paragraphs 17, 19, 22, 38, and 40-44, "evaluate and assess the location information", "determine a primary optimal location", "recommend and provide the optimal information to the wireless device", "corresponding optimal locations along with the corresponding data rates", note that the optimal location for communication is determined and recommended, hence it is inherent that a test is performed so that the optimal positions are determined. Further note that specific locations within the cell configuration provide specific data throughput performance. The data throughput performance of each location within the cell is inherently determined in order to provide the data rate capacity for each particular location since each location within the cell has a known data rate capacity, where optimum location is consequently determined according to such data rate capacity); and

generating, based at least in part on a result of the test, an instruction displayable to a user associated with the user device, the instruction being indicative of another location associated with an improved level of data throughput performance relative to that of the current location (paragraphs 7-9, and 40-44, Abstract, Figures 1-5, "device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", "additional information . . . data capabilities information such as data rate", "optimal location information", "a recommendation signal", "configuration device can recommend and provide the optimal information to the wireless device . . . as shown on FIG. 5",

"device makes its evaluation and assessment of what is or are optimal location(s)", "corresponding optimal locations along with the corresponding data rates", note that test (evaluation and assessment) is initiated so that optimal locations are determined. Further note that data throughput performance (data rate) information is provided with corresponding optimal locations, hence it is inherent that the test comprises a determination of data throughput performance. Further note that test (evaluation and assessment) is performed to determine what is optimal location and a recommendation signal is transmitted to the wireless device as a result of the test and inherently displayed as on figure 5).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Pub. No. 2004/0203698 A1, Comp.

Referring to claim 6, Karaoguz disclose the method of claim 1.

Karaoguz does not disclose the generated instruction is displayable on a display screen of **the user device**.

Comp discloses a pre-notification of potential connection loss in a wireless network where instruction is displayable on a display screen of the user device for a potential connection loss (Paragraphs 0022, "display", "notification", "potential loss").

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the method of Karaoguz by providing the generated instruction to be displayable on a display screen of the user device, as suggested by Comp, motivation being for the purpose of providing the best available signal strength for the user, and consequently making wireless users happy.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2002/0060995 A1, Cervello et al., in view of U.S. Pub. No. 2004/0203889 A1, Karaoguz, and further in view of U.S. Pub. No. 2003/0017858 A1, Kraft et al.

Referring to claim 7, Karaoguz disclose the method of claim 1.

Karaoguz does not disclose the generated instruction is displayable on a display screen that is not part of the user device.

Kraft discloses a data entry method where data is displayed in different display units (Paragraphs 0010 and 0027, "third display').

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the method of Karaoguz by providing the generated instruction to be displayable on a display screen that is not part of the user device, as suggested by Kraft, motivation being for the purpose of providing the strongest available signal strength for the user, and consequently making wireless users happy.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Pub. No. 2004/0052232 A1, Ramaswamy et al.

Referring to claim 13, Karaoguz disclose the method of claim 1.

Karaoguz does not disclose the generating step utilizes information derived from a global positioning system (GPS) in determining the location at which the given user device is expected to obtain a particular level of data throughput performance.

Ramaswamy discloses utilizing global positioning system (GPS) in determining the location at which the given user device is expected to obtain a particular level of data throughput performance (Paragraphs 0017, 0019-0020, and 0022).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the method of Karaoguz by providing the generating step to utilize information derived from a global positioning system (GPS) in determining the location at which the given user device is expected to obtain a particular level of data throughput performance, as suggested by Ramaswamy, motivation being for the purpose of providing a reliable tracking system.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Patent No. 6,813,501 B2, Kinnunen et al.

Referring to claim 14, Karaoguz disclose the method of claim 1.

Karaoguz does not disclose the generated instruction comprises an indication of a particular area within a given facility.

Kinnunen discloses a location dependent services method, where a particular area within a given facility is chosen for mobile terminals (col. 4, lines 42-67).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the method of Karaoguz by providing the generated instruction to comprise an indication of a particular area within a given facility, as suggested by Kinnunen, motivation being for the purpose of providing a strong signals in particular areas where communication is likely to experience weak signals.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Pub. No. US 2002/0044528 A1, Pogrebinsky et al.

Referring to claim 10, Karaoguz disclose the method of claim 1 wherein the test comprises a test sequence involving transmission between the at least one user device and the access point device.

Karaoguz does not specifically disclose the test comprises a test sequence **involving the transmission of a plurality of known packets at different bit rates** between the at least one user device and the access point device.

Pogrebinsky discloses a method and apparatus for measuring network bandwidth where the method involves a test sequence involving the transmission of a plurality of known packets at different bet rates (abstract, and paragraphs 3, 5, 6, 13-14, 26, 28-29, and 41, "estimating present network bandwidth, transmitting test packets for measuring the available bandwidth, and adjusting the bandwidth . . . by changing packet transmission bitrate").

It would have been obvious to one of the ordinary skill in the art at the time of invention to incorporate the teachings of Pogrebinsky into that of Karaoguz and consequently providing test to comprise a test sequence **involving the transmission of a plurality of known packets at different bit rates** between the at least one user device and the access point device, motivation being for the purpose of saving time in performing measurements and avoiding overloading the network.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Pub. No. 2002/0060995 A1, Cervello et al.

Referring to claim 16, Karaoguz disclose the method of claim 1.

Karaogus does not specifically the user device is compatible with at least one of the 802.11a standard, the 802.11b standard and the 802.11g standard.

Cervello discloses user device is compatible with at least one of the 802.11a standard, the 802.11b standard and the 802.11g standard (Abstract, and paragraphs 0003, 0006-0008, 0011, 0022-0023, 0025, 0037 and 0045).

It would have been obvious to one of the ordinary skill in the art at the time of invention to incorporate the teachings of Cervello into that of Karaogus and providing user device to be compatible with at least one of the 802.11a standard, the 802.11b standard and the 802.11g standard, motivation being for the purpose of providing the benefits of 802.11a standard, the 802.11b standard and the 802.11g standard, and expanding the network to such standards.

11. Claim 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of well known prior art (MPEP 2144.03).

Referring to claim 9, Karaoguz disclose the method of claim 1.

Karaoguz does not disclose the test is initiated in conjunction with access to a server connected to the access point via a network.

The examiner takes official notice of the fact that it is well known in the art for access points to be connected to servers via a network.

It would have been obvious to one of the ordinary skill in the art at the time of the invention to provide the test to be initiated in conjunction with access to a server connected to the access point via a network, motivation being for the purpose of providing an efficient and robust network.

Referring to claim 15, the Karaoguz disclose the method of claim 1 (as rejected above).

Karaoguz does not specifically disclose the generated instruction comprises an indication of a particular seating location in a group of seating locations within a given facility.

The examiner takes official notice of the fact that it is well known in the art for an access location to be a particular seating location in a group of seating location as it is well known that a person with a wireless computer laptop with operating the laptop while seated.

It would have been obvious to one of the ordinary skill in the art at the time of the invention to provide the generated instruction to comprise an indication of a particular seating location in a group of seating locations within a given facility, motivation being for the purpose of providing an convenience for the user of a wireless device by being seated.

12. Claim 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2004/0203889 A1, Karaoguz, in view of U.S. Pub. No. US 2002/0044528 A1, Pogrebinsky et al, and further in view of well known prior art (MPEP 2144.03).

Referring to claim 11, the combination of Karaoguz/Pogrebinsky disclose the method, of claim 10.

The combination of Karaoguz/Pogrebinsky does not specifically disclose the test sequence is initiated by the at least one user device, and the packets are transmitted to the access point device and returned from the access point device to the at least one user device.

The examiner takes official notice of the fact that it is well known in the art for user devices or mobile station to initiate testing and sending the initial data packets to an access node or base station.

It would have been obvious to one of the ordinary skill in the art at the time of the invention to provide the testing to be initiated by the user device and providing packets to be transmitted to the access point device and returned from the access point device to the at least one user device, because it would allow the user to be proactive and test throughput without waiting for a report from the network.

Referring to claim 12, the combinations of Karaoguz/Pogrebinsky disclose method of claim 10.

The combinations of Karaoguz/Pogrebinsky does not specifically disclose the test sequence is initiated by the access point device, and the packets are transmitted from the access point device to the at least one user device.

The examiner takes official notice of the fact that it is well known in the art for access points and/or base stations to initiate testing and sending the initial data packets to a user device or mobile terminal.

It would have been obvious to one of the ordinary skill in the art at the time of the invention to provide the testing to be initiated by the access point and providing the test sequence to be initiated by the access point device, and the packets to be transmitted from the access point device to the at least one user device, because it would provide user convenience, and users do not have to take any steps to initiate determining throughput.

Response to Arguments

13. Applicant's arguments, filed on April 14, 2006, with respect to the rejection(s) of claim(s) 10 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Pogrebinsky (US Pub. No. 2002/0044528 A1), and the case is opened

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid, can be reached at (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER